



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ravi K. Kavuri, et al.

Serial No.: 10/033,503

Group Art Unit: Unknown

Filed: December 27, 2001

Examiner: Unknown

For: Virtual Volume Management System And Method

Attorney Docket No.: 2001-028-NSC (STK 01028 PUS)

**DECLARATION OF JEFFREY M. SZUMA OF PERTINENT  
FACTS FOR PETITION UNDER 37 C.F.R. § 1.47(a)  
FILING WHEN A JOINT INVENTOR REFUSES TO SIGN**

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231

Sir:

In connection with the petition filed pursuant to 37 C.F.R. § 1.47(a) in the above-identified application, and pursuant to M.P.E.P. § 409.03(d), I, Jeffrey M. Szuma, declare as follows:

1. I am an attorney of record for the above-identified patent application.
2. At the time of the invention, all of the joint inventors for this application, Ravi K. Kavuri, John Chelikowsky, Renae M. Weber, and Timothy J. Kuik, were employed by Storage Technology Corporation ("StorageTek").
3. Mr. Kavuri and Mr. Chelikowsky remain employed by StorageTek. Ms. Weber and Mr. Kuik are no longer employed with StorageTek. Mr. Kavuri, Mr. Chelikowsky and Ms. Weber have each executed a Declaration for the present application, as well as an Assignment of their entire respective interests therein to StorageTek. Those Declarations

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Commissioner for Patents, United States Patent and Trademark Office, Washington, D.C. 20231 on:

May 28, 2002  
Date of Deposit

Jeffrey M. Szuma  
Name of Person Signing

  
Signature

accompany the 37 C.F.R. § 1.47(a) petition filed in this application. True copies of the Assignments are attached hereto as Exhibits A-C. StorageTek intends to file the original Assignments under separate cover for recordation with the Assignment Branch of the U.S. Patent Office.

4. Mr. Kuik is now employed by Cisco Systems, Inc. ("Cisco"), which is a party to intellectual property litigation with StorageTek.

5. I sent Mr. Kuik a draft copy of the above-identified patent application for his review by letter dated December 6, 2001 and addressed to Mr. Kuik's attorney, Mr. Joseph W. Hammell. Included therewith were a Declaration and an Assignment to StorageTek for Mr. Kuik's execution. A true copy of that letter, including enclosures, is attached hereto as Exhibit D.

6. As a result of an exchange of correspondence with Mr. Kuik's attorney, Mr. Hammell, dated December 11, 17, 20 and 27, 2001, and February 6, March 15, April 5 and 22, and May 9 and 28, 2002, StorageTek has concluded that Mr. Kuik's conduct constitutes a refusal to join in this application. True copies of those letters, including any enclosures, are attached hereto as Exhibits E-N.

7. Specifically, Mr. Kuik has reviewed the application, but refuses to provide any comments or execute either the Declaration or the Assignment provided to him. Indeed, despite Mr. Hammell's assertions that Mr. Kuik has no objection to assigning and is prepared to assign his rights to StorageTek, Mr. Kuik has refused to sign the Assignment, or cooperate in any fashion, unless and until StorageTek agrees to grant both him and Cisco complete immunity from any cause of action that StorageTek may have relating in any way to this matter.

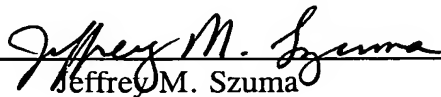
8. StorageTek is under no obligation to agree to such conditions. To the contrary, Mr. Kuik executed an Employee Agreement with Network Systems Corporation ("Network Systems"), which was merged with and into StorageTek in 1995, in which he agreed to cooperate fully and unconditionally in circumstances such as these, including executing the Assignment provided to him, and in which he did assign to Network Systems his rights in any inventions arising out of his employment. A true copy of Mr. Kuik's Employee Agreement is attached as part of the April 22, 2002 letter to Mr. Hammell (Exhibit L). A true copy of the Certificate of Ownership from the Office of the Secretary of State of the State of

Delaware, which Certificate merges Network Systems with and into StorageTek, is attached hereto as Exhibit O. StorageTek currently intends to file Mr. Kuik's Employee Agreement, together with the Certificate of Ownership from the State of Delaware, under separate cover for recordation with the Assignment Branch of the U.S. Patent Office.

9. I informed Mr. Kuik of his obligation to cooperate with StorageTek's reasonable request for his assistance through my April 22, 2002 letter to his attorney, Mr. Hammell (Exhibit L). Mr. Kuik, however, has and continues to refuse to cooperate, including refusing to execute and return the Assignment provided to him. As a result, the accompanying 37 C.F.R. § 1.47(a) petition has been filed by all of the available joint inventors for the present application.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,



Jeffrey M. Szuma  
Reg. No. 35,700  
Attorney for Applicant

Date: May 28, 2002

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